

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

**BRIAN STEWART,**

**Plaintiff,**

**Vs.**

**CAUSE NO. 1:21-cv-01509**

**JOHNSON COUNTY, JOHNSON  
COUNTY SHERIFF'S OFFICE-  
JAIL DIVISION, JOHNSON COUNTY  
SHERIFF'S DEPARTMENT, JOHNSON  
COUNTY JAIL, SHERIFF  
DUANE BURGESS, YET  
UNIDENTIFIED OFFICERS, and  
YET UNIDENTIFIED  
MEDICAL STAFF (All in Their  
Individual and Official Capacities).**

**COMPLAINT FOR DAMAGES  
AND DEMAND FOR TRIAL BY JURY**

Comes now the Plaintiff, Brian Stewart, and for his Complaint for Damages, alleges and states as follows:

**JURISDICTION**

1. Plaintiff, Brian Stewart (Hereinafter "Stewart" or "Plaintiff"), is a resident of Johnson County, in the State of Indiana.
2. Defendants, Johnson County, Johnson County Sheriff's Office – Jail Division, and Johnson County Sheriff's Department, all represent a governmental entity.
3. Defendant, Sheriff Duane Burgess, is a county official charged with overseeing the Johnson County Jail. He is named herein in his official and individual capacities.
4. Defendant, Johnson County Jail, is jail operated by Johnson County, the Johnson County Sheriff's Office – Jail Division, and the Johnson County Sheriff's Department.

5. Defendants, Yet Unidentified Officers, work at the Johnson County Jail and are herein named in their official and individual capacities.

6. Defendants, Yet Unidentified Medical Staff, provide medical services to inmates of the Johnson County Jail.

7. Stewart brings this action, *inter alia*, pursuant to 42 U.S.C. § 1983.

8. Stewart invokes this Court's federal question jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a).

9. Venue in this Court is proper pursuant to 28 U.S.C. § 1391.

### **FACTS**

10. At various times in 2019, beginning on or about June 8, 2019, Stewart was incarcerated in the Johnson County Jail as a pretrial detainee.

11. On or about June 8, 2019 through June 11, 2019, due to Defendants' policies, procedures and/or customs, and the actions of individuals acting under color of state law, Stewart was denied his necessary medical equipment for a fractured ankle and surgically placed hardware, as prescribed by his treating physician in deliberate indifference to his known medical needs.

12. On or about June 21, 2019, Stewart was again denied his necessary medical equipment for a fractured ankle and surgically placed hardware, as prescribed by his treating physician, due to Defendants' policies, procedures and/or customs, and the actions of individuals acting under color of state law in deliberate indifference to his known medical needs.

13. The medical equipment and hardware referred to include a medical boot and crutches designed to protect Plaintiff's surgically repaired leg and foot.

**COUNT I**

14. Plaintiff hereby incorporates by reference paragraphs one (1) through thirteen (13) herein.

15. Defendants had actual knowledge that Plaintiff recently had surgery on his leg and foot, and yet deliberately required him to walk on it without the prescribed equipment referred to above.

16. Unknown physicians and medical staff employed by Johnson County, the Johnson County Sheriff's Office – Jail Division, the Johnson County Sheriff's Department, and/or the Johnson County Jail, acting under color of state law, and also acting in both their official and individual capacities, violated Stewart's rights as protected by the Fourth and Fourteenth Amendments to the United States Constitution.

17. As a result of the foregoing, Stewart has incurred damages and attorney fees in prosecuting this action.

WHEREFORE, Plaintiff prays for judgment against Defendants, for an award of damages sufficient to compensate Plaintiff for his injuries, for an award of reasonable attorney fees, for Plaintiff's costs herein, and for all other appropriate relief.

**COUNT II**

18. Plaintiff incorporates by reference paragraphs one (1) through seventeen (17) herein.

19. Defendants failed to use reasonable care in the hiring, training or supervision of employees including officers and medical staff.

20. As a result of the foregoing, Stewart has sustained damages.

21. All conditions precedent to this action have been performed, have occurred, or have been excused.

WHEREFORE, Plaintiff prays for judgment against Defendants, for an award of damages sufficient to compensate Plaintiff for his injuries, for an award of reasonable attorney fees, for Plaintiff's costs herein, and for all other appropriate relief.

### **COUNT III**

23. Plaintiff incorporates by reference, as if fully restated herein, Paragraphs one (1) through twenty-two (22) of this Complaint.

24. Defendants violated Brian Stewart's rights as protected by the Fourth, and Fourteenth Amendments to the United States Constitution through its policies or customs regarding the hiring, training and supervision of their officers, physicians, medical providers and staff.

25. As a result of the foregoing, Brian Stewart has incurred damages and attorney fees in prosecuting this action.

WHEREFORE, Plaintiff prays for judgment against Defendants, for an award of damages sufficient to compensate Plaintiff for his injuries, for an award of reasonable attorney fees, for Plaintiff's costs herein, and for all other appropriate relief.

### **COUNT IV** **Negligence**

26. Plaintiff incorporates by reference paragraphs one (1) through twenty-five (25).

27. From June 8, 2019 through June 11, 2019, and again beginning or around June 21, 2019, Defendants failed to use reasonable care in overseeing the incarceration of Plaintiff by requiring him to remove his boot and give up his crutches that were necessary to protect his surgically repaired leg and foot.

28. As a result of Defendants' failure to use reasonable care, Plaintiff sustained injuries including, but not limited to, bodily injuries, emotional pain and suffering, medical expenses, permanent injuries and loss of time and enjoyment of life.

WHEREFORE, Plaintiff, Brian Stewart, prays for judgment against Defendants, Johnson County, Johnson County Sheriff's Office – Jail Division, Johnson County Sheriff's Department, Johnson County Jail, Johnson County Sheriff Duane Burgess, Yet Unidentified Officers, and Yet Unidentified Medical Staff, for damages sufficient to compensate him for his injuries, for costs incurred herein and for all appropriate relief.

Respectfully submitted,

HENN HAWORTH CUMMINGS

/s/ Paul J. Cummings

Paul J. Cummings, 22713-41

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REQUEST FOR JURY TRIAL

Plaintiff requests this Cause be tried by jury.

Respectfully submitted,

HENN HAWORTH CUMMINGS

/s/ Paul J. Cummings

Paul J. Cummings, 22713-41

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